

Small Business Administration

§ 125.1

(e) *Contents of appeal.* No specific format is required for the appeal. However, the appeal must identify the protest determination which is appealed, and set forth a full and specific statement as to why the determination is erroneous under paragraph (c) of this section.

(f) The appeal will be decided by the AA/GC&BD, within 5 working days of its receipt, if practicable.

(g) The appeal decision will be based only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protestor, and the protested concern, consistent with law.

(h) The decision of the AA/GC&BD, is the final decision of the SBA, and cannot be further appealed to OHA.

[63 FR 35772, June 30, 1998. Redesignated at 73 FR 57495, Oct. 3, 2008, as amended at 76 FR 5684, Feb. 2, 2011]

PART 125—GOVERNMENT CONTRACTING PROGRAMS

Sec.

- 125.1 Programs included.
- 125.2 Prime contracting assistance.
- 125.3 Subcontracting assistance.
- 125.4 Government property sales assistance.
- 125.5 Certificate of Competency Program.
- 125.6 Prime contractor performance requirements (limitations on subcontracting).
- 125.7 Acquisition-related dollar thresholds.

Subpart A—Definitions for the Service-Disabled Veteran-Owned Small Business Concern Program

- 125.8 What definitions are important in the Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) Program?

Subpart B—Eligibility Requirements for the SDVO SBC Program

- 125.9 Who does SBA consider to own an SDVO SBC?
- 125.10 Who does SBA consider to control an SDVO SBC?
- 125.11 What size standards apply to SDVO SBCs?
- 125.12 May an SDVO SBC have affiliates?
- 125.13 May 8(a) Program participants, HUBZone SBCs, Small and Disadvantaged Businesses, or Women-Owned Small Businesses qualify as SDVO SBCs?

Subpart C—Contracting with SDVO SBCs

- 125.14 What are SDVO contracts?
- 125.15 What requirements must an SDVO SBC meet to submit an offer on a contract?
- 125.16 Does SDVO SBC status guarantee receipt of a contract?
- 125.17 Who decides if a contract opportunity for SDVO competition exists?
- 125.18 What requirements are not available for SDVO contracts?
- 125.19 When may a contracting officer set-aside a procurement for SDVO SBCs?
- 125.20 When may a contracting officer award sole source contracts to SDVO SBCs?
- 125.21 Are there SDVO contracting opportunities at or below the simplified acquisition threshold?
- 125.22 May SBA appeal a contracting officer's decision not to reserve a procurement for award as an SDVO contract?
- 125.23 What is the process for such as appeal?

Subpart D—Protests Concerning SDVO SBCs

- 125.24 Who may protest the status of an SDVO SBC?
- 125.25 How does one file a service disabled veteran-owned status protest?
- 125.26 What are the grounds for filing an SDVO SBC protest?
- 125.27 How will SBA process an SDVO protest?
- 125.28 What are the procedures for appealing an SDVO status protest?

Subpart E—Penalties and Retention of Records

- 125.29 What penalties may be imposed under this part?

AUTHORITY: 15 U.S.C. 632(p), (q); 634(b)(6); 637; 644 and 657(f).

SOURCE: 61 FR 3312, Jan. 31, 1996, unless otherwise noted.

§ 125.1 Programs included.

The regulations in this part relate to the Government contracting assistance programs of SBA. There are five main programs: Prime contracting assistance; Subcontracting assistance; Government property sales assistance; the Certificate of Competency program; and Service-Disabled Veteran-Owned Small Business Concern contracting assistance. The objective of the programs is to assist small businesses in

§ 125.2

13 CFR Ch. I (1–13 Edition)

obtaining a fair share of Federal Government contracts, subcontracts, and property sales.

[61 FR 3312, Jan. 31, 1996, as amended at 69 FR 25266, May 5, 2004]

§ 125.2 Prime contracting assistance.

(a) *General.* Small business concerns must receive any award or contract, or any contract for the sale of Government property, that SBA and the procuring or disposal agency determine to be in the interest of:

- (1) Maintaining or mobilizing the Nation's full productive capacity;
- (2) War or national defense programs;
- (3) Assuring that a fair proportion of the total purchases and contracts for property, services and construction for the Government in each industry category are placed with small business concerns; or

(4) Assuring that a fair proportion of the total sales of Government property is made to small business concerns.

(b) *Responsibilities in the acquisition planning process.* (1) SBA Procurement Center Representatives (PCRs) are generally located at Federal agencies and buying activities which have major contracting programs. PCRs are responsible for reviewing all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate and to identify alternative strategies to maximize the participation of small businesses in the procurement.

(2) As early in the acquisition planning process as practicable, but no later than 30 days before the issuance of a solicitation, or prior to placing an order without a solicitation, the procuring activity must coordinate with the procuring activity's Small Business Specialist (SBS) when the acquisition strategy contemplates an acquisition meeting the dollar amounts in paragraph (b)(2)(i) of this section, unless the contract or order is entirely reserved or set-aside for small business concerns as authorized under the Small Business Act. The SBS must notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) if the strategy or plan includes bundled requirements that the agency has not identified as bundled or includes unnecessary or unjustified bundling of requirements. If the strategy involves

substantial bundling, the SBS shall assist in identifying alternative strategies that would reduce or minimize the scope of the bundling.

(i) The procuring activity must coordinate the acquisition strategy with the cognizant SBS in accordance with paragraph (b)(2) of this section if the estimated acquisition, contract or order value is:

(A) \$7.5 million or more for the Department of Defense;

(B) \$5.5 million or more for the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy; and

(C) \$2 million or more for all other agencies.

(ii) If the strategy contemplates multiple award contracts or multiple award orders under the Federal Supply Schedule or a task or delivery order contract awarded by another agency, the thresholds in paragraph (b)(2)(i) of this section apply to the cumulative estimated value of the multiple award contracts or orders, including options.

(3) A procuring activity must provide a copy of a proposed acquisition strategy (e.g., Department of Defense Form 2579, or equivalent) to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) at least 30 days prior to a solicitation's issuance whenever a proposed acquisition strategy:

(i) Includes in its description goods or services currently being performed by a small business and the magnitude of the quantity or estimated dollar value of the proposed procurement would render small business prime contract participation unlikely;

(ii) Seeks to package or consolidate discrete construction projects; or

(iii) Meets the definition of a bundled requirement as defined in paragraph (d)(1)(i) of this section.

(4) Whenever any of the circumstances identified in paragraph (b)(2) of this section exist, the procuring activity must also submit to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying